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In re Application of
SØRENSEN, Elmggaard Birger
Application No.: 09/743,589
PCT No.: PCT/DK99/00401
Int. Filing Date: 13 July 1999
Priority Date: 14 July 1998
Attorney Docket No.: 6474-02WOUS
For: NITS SEPARATOR

DECISION ON
PETITION
UNDER 37 CFR 1.181

This decision is in response to "Petition to Obtain Earlier Date of Receipt," filed with the United States Patent and Trademark Office on 18 March 2003.

BACKGROUND

On 13 July 1999, applicant filed international application PCT/DK99/00401. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 27 January 2000. On 11 February 2000, applicant filed a Demand for international preliminary examination, prior to the expiration of nineteen months from the priority date. Accordingly, the thirty month period for paying the basic national fee in the United States expired on 16 January 2001 (14 January 2001 was a Sunday and 15 January 2001 was a holiday).

On 11 January 2001, applicant filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 26 April 2002, the Office mailed a Notification of Abandonment (Form PCT/DO/EO/909) indicating that the above-identified application was abandoned for failure to respond to the Notification of Missing Requirements mailed 23 February 2001.

On 28 May 2002, applicant filed the instant "Petition to Withdraw the Holding of Abandonment," which was accompanied by, *inter alia*, a declaration and a docketing log.

On 24 September 2002, the Office mailed Decision On Petition granting applicant's petition to withdraw the holding of abandonment and instructing that a new Notification of Missing Requirements be mailed.

On 24 January 2003, applicant submitted a declaration executed by the inventor.

On 27 January 2003, the Office mailed Notification of Acceptance (Form PCT/DO/EO/903) indicating that the application had a date of 24 January 2003 for completion of the requirements under 35 USC 371 (c)(1), (c)(2) and (c)(4).

On 18 March 2003, applicant submitted the instant petition to accord the application an earlier date under 35 USC 371 (c)(1), (c)(2) and (c)(4).

DISCUSSION

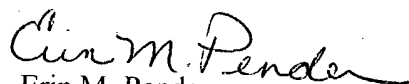
The date on the Notification of Acceptance is the date on which the requirements of 35 USC 371 (c)(1), (c)(2) and (c)(4) were satisfied. Those requirements are the basic national fee, a copy of the international application unless previously transmitted by the International Bureau and an oath or declaration of the inventors. The basic national fee was furnished on 11 January 2001, the application had been transmitted by the International Bureau and the declaration of the inventor was furnished on 24 January 2003. As such, the application was correctly accorded a 35 USC 371 (c)(1), (c)(2) and (c)(4) date of 24 January 2003.

Applicant seeks an earlier date than the date on which applicant submitted the executed declaration of the inventor. Applicant was free to supply the declaration to the Office at any time and receive an earlier 35 USC 371 (c)(1), (c)(2) and (c)(4) date. The Notification of Missing Requirements is not a prerequisite for furnishing the requirements. Further, the date is statutory and the Office has no authority to waive it.

CONCLUSION

For the reasons set forth above, the petition under 37 CFR 1.181 is **DISMISSED** without prejudice.

This application is being forwarded to the Group Art Unit 1722 for continued processing.



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